## Introduced by Senator Wright (Coauthors: Senators Calderon and Strickland)

February 27, 2009

An act to amend Sections 380, 399.12, 399.14, 454.6, 2842, and 8341 of, and to amend and renumber Sections 454.5, 454.55, 454.56, and 635 add Section 25741.5 to the Public Resources Code, and to amend Sections 399.11, 399.13, 399.14, 399.15, 399.16, and 399.17 of, to add Sections 399.10, 399.15.5, and 399.19 to, to add the heading of Article 16 (commencing with Section 399.10) to Chapter 2.3 of Part 1 of Division 1 of, to repeal the heading of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal and add Section 387 of, the Public Utilities Code, relating to energy.

## LEGISLATIVE COUNSEL'S DIGEST

SB 805, as amended, Wright. Energy: renewable energy resources: procurement.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. The existing Public Utilities Act requires the commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The elements, among other things, require that the plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 20% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated

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from eligible renewable energy resources, provided sufficient funds are made available to cover certain above-market costs.

This bill would expand the definition of an in-state renewable electricity generation facility to include small hydroelectric generation of 50 megawatts or less if it is located outside the United States and meets certain other requirements, including that it has obtained the approvals required to demonstrate compliance with the environmental and other land use regulations of the governing jurisdiction.

This bill would move the requirements for the commission to review and adopt a procurement plan for each electrical corporation from an article concerning rates to an article concerning long-term plans and procurement plans, and make conforming changes that reference existing law. The bill would require that an electrical corporation's proposed procurement plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the renewables portfolio standard established pursuant to the California Renewables Portfolio Standard Program.

Existing law requires the commission, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for electrical corporations to achieve pursuant to their procurement plan. Existing law requires the commission, in consultation with the Energy Commission to identify all potentially achievable cost-effective natural gas efficiency savings and to establish efficiency targets for a gas corporation to achieve and requires a gas corporation to first meet its unmet resource needs through all available natural gas efficiency and demand reduction resources that are cost effective, reliable, and feasible.

This bill would move these requirements from an article concerning rates to an article concerning long-term plans and procurement plans.

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(1) The California Renewables Portfolio Standard Program (RPS program) requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, in order to fulfill unmet long-term resource needs, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage

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of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. The *RPS* program requires the commission *Public Utilities Commission (PUC)* to review and adopt a renewable energy procurement plan for each electrical corporation. The *RPS* program requires the commission *PUC*, by rulemaking, to adopt a process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the renewables portfolio standard on a total cost basis.

This bill would additionally require that the process consider the cost impacts of procuring the eligible renewable energy resources on the electrical corporation's procurement plan, the effects upon electrical system reliability, and the environmental and economic benefits of procuring renewable energy.

This bill would revise the renewables portfolio standard to require each retail seller, in order to fulfill the unmet long-term resource needs of the retail seller, to increase its total procurement of eligible renewable energy resources so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, and 33% by December 31, 2020. The bill would require that the procurement plan adopted for an electrical corporation include a renewables portfolio standard requiring the electrical corporation to procure a minimum quantity of electricity generated by eligible renewable energy resources so that 33% of its retail sales are procured from eligible renewable energy resources by December 31, 2020, and would delete the requirement that the plan require the electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year until it reaches the renewables portfolio standard.

Under existing law, 51.5% of the renewable energy public goods charge is retained by the state's 3 largest electrical corporations for use in paying the above-market costs of electricity from eligible renewable energy resources procured pursuant to the RPS program. Existing law authorizes the collection of the renewable energy public goods charge until January 1, 2012. Existing law requires the PUC, as part of the renewables portfolio standard procurement solicitation

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process, to establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of certain matters. Existing law requires the PUC to establish a limitation on the total costs expended by electrical corporations above the market price determined by the PUC pursuant to this methodology. The cost limitation is required to be equal to the amount of renewable energy public goods charge moneys retained by the state's 3 largest electrical corporations.

This bill would require that, beginning January 1, 2012, the cost limitation established by the PUC for electrical corporations be 3% of the annual revenue requirement for the previous calendar year, including all direct and indirect costs associated with achieving a 33% renewables portfolio standard.

The RPS program requires the commission PUC, by rulemaking to adopt flexible rules for compliance that apply to all years, including years before and after the retail supplier procures at least 20% of total retail sales of electricity from eligible renewable energy resources.

This bill would require the commission, by rulemaking, to adopt flexible rules for compliance that apply to all years before and after a retail seller procures at least 20% by December 31, 2010, and 33% by December 31, 2020, of total retail sales of electricity from eligible renewable energy resources. The bill would require that if, despite good faith efforts to procure eligible renewable energy resources, the procurement options available to retail sellers are insufficient to meet targets due to insufficient supply or uncompetitive prices, a retail seller will not be deemed out of compliance by the PUC. The bill would require that the RPS program allow electricity from eligible renewable energy resources and unbundled renewable energy credits, as defined, from eligible renewable energy resources located in states within the WECC, as defined, to count towards the renewables portfolio standard targets, provided that eligible renewable energy resources providing benefits within the state, in accordance with certain purposes, be preferred. The bill would authorize a retail seller to meet up to no more than 25% of its renewables portfolio standard procurement requirements with unbundled renewable energy credits, as defined, from eligible renewable energy resources located outside the state, but within the region of the WECC, as defined. The bill would require a retail seller to annually report certain information to the commission relative to compliance with the renewables portfolio standard.

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Existing law requires the commission to review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and to accept or reject proposed contracts based on consistency with the approved plan.

This bill would require the commission to additionally establish project development milestones to evaluate the potential for compliance with the adopted plan and a set of actions that will occur as a result of not meeting those milestones. The bill would require the commission, in consultation with the Energy Commission, to adopt rules for the enforcement of the program with respect to retail sellers. The bill would provide that if the commission determines that despite good faith best efforts by a retail seller to procure eligible renewable energy resources, that there are insufficient eligible renewable energy resources at competitive prices to enable the retail seller to meet its renewables portfolio standard procurement requirements, the retail seller is not out of compliance with the renewables portfolio standard.

The existing RPS program includes provisions that are applicable to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, and authorizes the commission to adopt procurement requirements for the electrical corporation as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year.

This bill would extend these provisions to an electrical cooperative, as defined, that serves 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(2) Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a

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renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to report certain information relative to renewable energy resources to its customers.

This bill would require the governing board of a local publicly owned electric utility, in order to meet long-term unmet resource needs, to adopt and implement a renewables portfolio standard that requires the utility to increase its procurement of eligible renewable energy resources so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020. The bill would require the governing board to formally adopt a renewables portfolio standard program meeting these procurement requirements at a duly noticed public hearing on or before January 31, 2011. The bill would require that the renewables portfolio standard program of a local publicly owned electric utility utilize the accounting system adopted by the State Energy Resources Conservation and Development Commission (Energy Commission) for retail sellers. The bill would authorize the renewables portfolio standard program of a local publicly owned electric utility to use renewable energy credits to the same extent authorized by the commission for retail sellers. The bill would require a local publicly owned electric utility to annually report to its customers and the Energy Commission the utility's progress toward meeting the 33% renewables portfolio standard procurement requirement, including information about the location and sources of electricity and use of renewable energy credits. By placing additional requirements upon local publicly owned electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

(3) The existing RPS program requires the Energy Commission to (1) certify eligible renewable energy resources, (2) design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, (3) establish a system for tracking and verifying renewable energy credits (RECs) that verifies the generation and delivery of electricity associated with RECs, and (4) certify, for purposes of compliance with the renewables portfolio standard by a retail seller, the eligibility of RECs associated with deliveries of electricity to a local publicly owned electric utility. Existing law requires that for an REC to be certified that is associated with

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deliveries of electricity to a local publicly owned electric utility, the local publicly owned electric utility must be in compliance with an RPS program adopted for the utility by its governing board, and that the RPS program adopted by the utility establishes an annual renewables portfolio standard target comparable to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the REC is sold to another retail seller.

This bill would require that for an REC to be certified that is associated with deliveries of electricity to a local publicly owned electric utility, the local publicly owned electric utility must be in compliance with an RPS program adopted for the utility by its governing board, and that the RPS program adopted by the utility establishes a renewables portfolio standard target equivalent to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to meet the targets, and will not fail to meet the targets in the event that the REC is sold to a retail seller.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25741.5 is added to the Public Resources 2 Code, to read:
- 3 25741.5. For a local publicly owned utility that was in existence
- 4 on or before January 1, 2009, that provides retail electric service
- 5 to 15,000 or fewer customer accounts in California, and is
- 6 interconnected to a control area located outside this state within
- 7 the Western Electricity Coordinating Council (WECC) an eligible 8 renewable energy resource includes a facility that is located
- 9 outside California if the facility is connected to the WECC
- 10 transmission system, if all of the following conditions are met:

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(a) The electricity generated by the facility is procured by the local publicly owned utility and is not used to fulfill renewable energy procurement requirements in other states.

- (b) The local publicly owned utility participates in, and complies with, the accounting system administered by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.
- (c) The commission verifies that the electricity generated by the facility is eligible to meet procurement targets.
  - SEC. 2. Section 387 of the Public Utilities Code is repealed.
- 387. (a) Each governing body of a local publicly owned electric utility shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.
- (b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, the following:
- (1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.
- (2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.
- (3) The utility's status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility's progress toward attaining the standard following implementation.
- SEC. 3. Section 387 is added to the Public Utilities Code, to read:
- 39 387. (a) In order to meet long-term unmet resource needs, the governing body of each local publicly owned electric utility shall

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adopt and implement a renewables portfolio standard that requires the utility to increase its procurement of eligible renewable energy resources so that 33 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020. For purposes of this section, "eligible renewable energy resource," "procure," "renewables portfolio standard," and "renewable energy credit" have the same meanings as defined in Article 16 (commencing with Section 399.10).

- (b) The governing body of each publicly owned electric utility shall, on or before January 31, 2011, and at a duly noticed public hearing, formally adopt a renewables portfolio standard program meeting the procurement requirements of subdivision (a). Prior to adoption of the program, the governing body of the local publicly owned electric utility shall provide opportunities for public participation.
- (c) (1) The renewables portfolio standard program adopted by a governing body of a local publicly owned utility may authorize the use of renewable energy credits to the same extent authorized by the commission pursuant to Section 399.16 for retail sellers.
- (2) The renewables portfolio standard program adopted by a governing body of a local publicly owned utility shall utilize the accounting system adopted by the Energy Commission pursuant to Section 399.13 for retail sellers.
- (d) The governing board of each publicly owned electric utility shall annually report to its customers and the Energy Commission on the utility's progress toward meeting the 33 percent renewables portfolio standard procurement requirement of subdivision (a), including all of the following:
- (1) The amount of electricity procured from eligible renewable energy resources located in this state, by source.
- (2) The amount of electricity procured from eligible renewable energy resources located outside the state, generated within the WECC, by source.
- (3) The amount of renewable energy credits procured from eligible renewable energy resources located in this state.
- (4) The amount of renewable energy credits procured from eligible renewable energy resources located outside this state, for electricity generated within the WECC.
- (e) Upon distribution of information related to its renewable energy resource procurement status and future plans to its

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governing body, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make that information available to the public and shall provide the Energy Commission with an electronic copy of the documents for posting on the Energy Commission's Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

SEC. 4. The heading of Article 16 (commencing with Section 399.10) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 16. California Renewables Portfolio Standard Program

- SEC. 5. Section 399.10 is added to the Public Utilities Code, to read:
  - 399.10. The Legislature finds and declares all of the following:
- (a) Reliable, reasonably priced, and environmentally responsible electrical service is essential to the economic well-being of California consumers and businesses.
- (b) The State Air Resources Board has identified a statewide target of generating 33 percent of the state's electricity from renewable energy resources as a key measure to comply with the requirements of the California Global Warming Solutions Act of 2006 to achieve cost-effective reductions in emissions of greenhouse gases consistent with maintaining reliability of the electrical system.
- (c) The State Air Resources Board has identified the need for sufficient transmission and the ability to integrate large quantities of intermittent renewable energy resources, such as wind and solar generation, as a key prerequisite to reaching the target of generating 33 percent of the state's electricity from renewable energy resources, so that the state's electrical system continues to operate in an efficient and reliable manner.
- SEC. 6. The heading of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

Article 16. California Renewables Portfolio Standard Program

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SEC. 7. Section 399.11 of the Public Utilities Code is amended 2 to read:

- 399.11. The Legislature finds and declares all of the following:
- (a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and 33 percent by December 31, 2020, and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, reducing emissions of greenhouse gases, and promoting economic development, it is the intent of the Legislature that the commission and the State Energy Resources Conservation and Development Energy Commission implement the California Renewables Portfolio Standard Program described in this article.
- (b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.
- (c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.
- (d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the State Energy Resources Conservation and Development Energy Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.
- 31 (e) New and modified electric transmission facilities may be 32 necessary to facilitate the state achieving its renewables portfolio 33 standard targets.
- 34 SEC. 8. Section 399.13 of the Public Utilities Code is amended 35 to read:
  - 399.13. The Energy Commission shall do all of the following:
- 37 (a) Certify eligible renewable energy resources that it determines 38 meet the criteria described in subdivision (b) of Section 399.12 or
- 39 Section 399.12.5.

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(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

- (c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council WECC in the development of this system.
- (d) Certify, for purposes of compliance with the renewable renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that the following conditions have been satisfied:
- (1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.
- (2) The local publicly owned electric utility has established—an annual a renewables portfolio standard target—comparable equivalent to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy meet the targets, and will not fail to-satisfy meet the targets in the

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1 event that the renewable energy credit is sold to-another *a* retail 2 seller.

- SEC. 9. Section 399.14 of the Public Utilities Code is amended to read:
- 399.14. (a) (1) The commission shall direct each electrical corporation to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.
- (2) The commission shall adopt, by rulemaking, all of the following:
- (A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.
- (B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.
- (C) (i) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least 20 percent, by December 31, 2010, and 33 percent, by December 31, 2020, of total retail sales of electricity from eligible renewable energy resources. If, despite good faith efforts to procure eligible renewable energy resources, the procurement options in Section 399.15.5 are insufficient to meet targets due to insufficient supply or uncompetitive offers, a retail seller shall not be deemed out of compliance.

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(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:

- (I) Utilize flexible delivery points.
- (II) Ensure the availability of any needed transmission capacity.
- (III) If the retail seller is an electric corporation, to construct needed transmission facilities.
- (IV) Nothing in this subparagraph shall be construed to revise any portion of Section 454.5.
- (D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.
- (3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:
- (A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.
- (B) Provisions for employing available compliance flexibility mechanisms established by the commission.
- (C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.
- (4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no

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less than 10 years in duration, unless the commission approves of a contract of shorter duration.

- (5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.
- (b) The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005.
- (c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy procurement plan prior to the commencement of renewable procurement pursuant to this article by an electrical corporation.
- (d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.
- (e) If an electrical corporation fails to comply with a commission order adopting a renewable energy procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any other retail seller that fails to meet—annual procurement targets established pursuant to Section 399.15.
- (f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy-annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

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(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

- (g) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission shall be deemed reasonable per se, and shall be recoverable in rates.
- (h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- SEC. 10. Section 399.15 of the Public Utilities Code is amended to read:
- 399.15. (a) In order to fulfill *the* unmet long-term resource needs *of each retail seller*, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, subject to limits on the total amount of costs expended above the market prices determined in subdivision (c), to achieve the targets established under this article.
- (b) The commission shall implement annual procurement targets for each retail seller as follows:
- (1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 33 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010 2020. A retail seller with 20 33 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.

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(2) For purposes of setting—annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.

- (3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.
- (4) In the event that a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall, subject to the limitation on costs for electrical corporations established pursuant to subdivision (d).
- (c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:
- (1) The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.
- (2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.
- (3) The value of different products including baseload, peaking, and as-available electricity.
- (d) The commission shall establish, for each electrical corporation, a limitation on the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under this article.
- (1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012 December 31, 2011, from the customers of the electrical corporation based on

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the renewable energy public goods charge in effect as of January 1, 2007. Commencing January 1, 2012, the cost limitation shall be 3 percent of the annual revenue for the previous calendar year, including all direct and indirect costs associated with achieving a 33 percent renewables portfolio standard.

- (2) The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:
- (A) The contract has been approved by the commission and was or approved by the commission and selected through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.14.
  - (B) The contract covers a duration of no less than 10 years.
- (C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.
- (D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.
- (E) The above-market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.
- (3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).
- (4) Nothing in this section prevents an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above-market prices that are not counted toward the *total* cost limitation. Any voluntary procurement involving above-market costs shall be subject to commission approval prior to the expense being recovered in rates.
- (e) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

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(f) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

- SEC. 11. Section 399.15.5 is added to the Public Utilities Code, to read:
- 399.15.5. (a) The renewables portfolio standard program authorized pursuant to this article shall allow electricity from eligible renewable energy resources and unbundled renewable energy credits from eligible renewable energy resources located in states within the WECC to count towards the renewables portfolio standards targets. However, eligible renewable energy resources providing benefits within this state in accordance with the purposes set forth in subdivisions (a), (b), and (c) of Section 399.11 shall be preferred. The preferred means of procuring eligible renewable resources shall be to do any of the following:
- (1) Procure electricity and associated renewable energy credits from eligible renewable resources located in this state.
- (2) Procure electricity and associated renewable energy credits from eligible renewable energy resources located outside this state and within the WECC.
- (3) Procure unbundled renewable energy credits, provided, however, that no more than 25 percent of a renewables portfolio standard requirement shall be met with unbundled renewable energy credits from eligible renewable resources located outside this state and within the WECC.
- (b) The commission may require an electrical corporation to own and operate eligible renewable energy resources in furtherance of the renewables portfolio standard program.
- SEC. 12. Section 399.16 of the Public Utilities Code is amended to read:
- 399.16. (a) The commission, by rule, may authorize the use of renewable energy credits to satisfy the requirements of the renewables portfolio standard established pursuant to this article, subject to the following conditions:
- (1) Prior to authorizing any renewable energy credit to be used toward satisfying annual procurement targets, the commission and the Energy Commission shall conclude that the tracking system established pursuant to subdivision (c) of Section 399.13, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered

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to the retail seller, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the Western Electricity Coordinating Council (WECC).

- (2) A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.
- (3) The electricity is delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility.
- (4) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.
- (5) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.13 and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.
- (6) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count toward the renewables portfolio standard obligations of the purchasing retail seller.
- (7) The commission may limit the quantity of renewable energy credits that may be procured unbundled from electricity generation by any retail seller, to meet the requirements of this article. However, a retail seller shall be permitted to meet up to 25 percent of its renewables portfolio standard procurement requirements with unbundled renewable energy credits from eligible renewable energy resources located outside the state, but within the WECC.
- (8) No electrical corporation shall be obligated to procure renewable energy credits to satisfy the requirements of this article in the event that the total costs expended above the applicable

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market prices for the procurement of eligible renewable energy resources exceeds the cost limitation established pursuant to subdivision (d) of Section 399.15.

- (9) Any additional condition that the commission determines is reasonable.
- (b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.
- SEC. 13. Section 399.17 of the Public Utilities Code is amended to read:
- 399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California or an electrical cooperative, as defined in Section 2776, serving 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California.
- (b) For an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California or an electrical cooperative serving 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California, an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the Western Electricity Coordinating Council (WECC) WECC transmission system, provided all of the following conditions are met:
- (1) The electricity generated by the facility is procured by the electrical corporation *or cooperative* on behalf of its California customers, and is not used to fulfill renewable energy procurement requirements in other states.
- (2) The electrical corporation *or cooperative* participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.13.
- (3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the annual procurement targets of this article.
- (c) The commission shall determine the annual procurement targets for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California or an electrical cooperative serving 25,000 or fewer

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customer accounts in California that serves retail end-use customers outside of California, as a specified percentage of total kilowatthours sold by the electrical corporation or cooperative to its retail end-use customers in California in a calendar year.

- (d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California or an electrical cooperative serving 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, and 399.14, as modified by this section.
- (e) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California or an electrical cooperative serving 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation's or electrical cooperative's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation or cooperative.
- SEC. 14. Section 399.19 is added to the Public Utilities Code, to read:
- 399.19. (a) The commission, in consultation with the Energy Commission and the Independent System Operator, shall report to the Governor and the Legislature by January 1, 2012, and by January 1 of each even year thereafter, on the state's progress toward achieving a statewide 33 percent renewables portfolio standard. The report shall include all of the following:
- (1) The current status and progress made during the prior two years toward procurement of eligible renewable energy resources located in the state, including the status of siting and permitting eligible renewable resources by federal, state, and local agencies, procurement of eligible renewable energy resources located outside

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the state and within the WECC, and procurement of unbundled renewable energy credits.

- (2) The current status and progress made during the prior two years toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components to interconnect eligible renewable energy resources and to deliver the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.
- (3) The current status and progress made during the prior two years in integrating intermittent eligible renewable energy resources into the total electricity supply mix, including frequency control, balancing load and generation, ramping, utilization of smart grid and storage technologies, and the status of siting and permitting load following resources by federal, state, and local agencies.
- (4) The total costs of achieving progress toward a statewide 33 percent renewables portfolio standard, including indirect costs, including, but not limited to, integrating and delivering eligible renewable resources, and the cost per ton of reductions in greenhouse gas emissions and the amount and rate of reductions achieved.
- (5) Recommendations to remove impediments to making progress toward achieving a statewide 33 percent renewables portfolio standard, including adjustments to total cost limitations; recommendations to achieve greater cost-effective reductions in emissions of greenhouse gases through energy efficiency and demand response, including use of efficient combined heat and power systems, or other strategies.
- (b) The commission, consistent with the report prepared pursuant to subdivision (a), shall revise the procurement targets established for electrical corporations pursuant to Section 399.15, to reflect the cost and implementation determinations identified in the long-term procurement plan proceeding, as needed, to ensure that California consumers and businesses continue to receive reliable, reasonably priced electrical service.
- SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because certain costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

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infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.

With respect to certain other costs, no reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 27, 2009 (JR11)